

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF LEXINGTON MSA LIMITED )  
PARTNERSHIP FOR ISSUANCE OF A )  
CERTIFICATE OF PUBLIC CONVENIENCE )  
AND NECESSITY TO CONSTRUCT AN )  
ADDITIONAL CELL SITE IN LEXINGTON, ) CASE NO. 96-009  
KENTUCKY FOR THE PROVISION OF )  
DOMESTIC PUBLIC CELLULAR RADIO )  
TELECOMMUNICATIONS SERVICE TO THE )  
PUBLIC IN THE LEXINGTON MSA )

O R D E R

The Commission has received the attached letters from Norman and Georgette Mashni, Lucy Faulkner Wheeler, Richard Schubert, Lora B. Tuttle, J. C. Fife, William H. and Leize F. Qualls, Lucy Bergen, Dr. T. C. Smith, Carol Cravens, Fred S. Bachmeyer, William S. Wester, Mary K. Kelly, Penny Medley, Diane Parrish, James A. Bryant, and Ruth Hudson (hereinafter referred to collectively as "Petitioners") regarding the proposed cellular telecommunications facility to be located at 327 Duke Road, Lexington, Fayette County, Kentucky.

IT IS THEREFORE ORDERED that:

1. Lexington MSA Limited Partnership ("Lexington MSA") shall respond to each Petitioners' concerns by certified letter, within 20 days of the date of this Order.

2. Lexington MSA shall file a copy of each certified letter and dated receipt, within 7 days of the date on the receipt.

Done at Frankfort, Kentucky, this 2nd day of February, 1996.

ATTEST:

  
Executive Director

PUBLIC SERVICE COMMISSION

  
For the Commission

*Dotsen*

Norman and Georgette Mashni  
205 South Limestone Street  
Lexington, Kentucky

REC

JAN 24 1996

PUBLIC SE.  
COMMISSION

January 18, 1996

Executive Directors Office  
Public Service Commission of Kentucky  
Post Office Box 615  
Frankfort, Kentucky 40602

Re: Request for Intervention of Proposed Case No. 96-009

We strongly oppose the construction of a facility at 327 Duke Road, Lexington, Kentucky. None of my tenants wish to see this construction built on this site. And, as land owners within a 500' radius of this proposed tower, we feel it is our duty to intervene.

Thank You Very Much

*Norman Mashni*  
Norman and Georgette Mashni

bv

Dotsen

RECEIVED

JAN 24 1996

PUBLIC SERVICE  
COMMISSION

1360 E. Cooper Dr.  
Lexington, Ky. 40502  
January 22, 1996

Executive Director's Office  
Public Service Commission of Kentucky  
Post Office Box 615  
Frankfort, Ky. 40602

Re. CASE NO. 96-009

To whom it may concern:

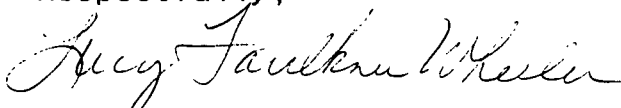
In response to the application for MSA Limited Partnership for construction and operation of a cellular radio telecommunication service and tower in the yard of 327 Duke Rd., Lexington, Ky, the following reasons for denial shall be listed as follow.

The location is not justified, as it is in a small back yard of an apartment house of a R-4 residential, established neighborhood. First, observing the orange stakes, since the snow has melted, I see the width almost consumes the whole grass area, then the height and massiveness would be even worse to see in this area. I do not understand why this yard was selected as it is certainly not suited for the tower. I feel as owner of the store building at 336 Romany Road that many of the electronics involved could also cause problems with the computer systems, databases and telephone system of my renters business (Wheeler Pharmacy). It also has a potential hazard of falling in a storm, and inviting starlings to roost, posing a health hazard. I think this tower could become a nuisance in later years when the tower would not be sufficient and more towers and equipment would be added, making the matter worse for the area.

My next objection would be that the Arnett Pritchett Home is next door and is a nursing facility containing elderly women, of which my mother has been a resident for 13 years. I am and have been a regular visitor of at least 5-7 days a week for the entire time she has been there. On her behalf, and the Pritchett home, I also am strongly against the granting of this tower for the same reasons as stated above. Adding one more reason, besides safety, would be that the ladies enjoy the screened porch in the spring, summer and fall as that is a safe place for them to convene and see some forms of nature, as the grass, flowers, squirrels, rabbits and the songbirds who live in the thicket in the back yard. Parties are held regularly in the warm months and I think this would make a problem for my mother and the home as well, besides being terribly unsafe and ugly.

Please deny this proposal based upon the following reasons, and ask them to find another place in the area that is more suitable, as this one is not and opposition will continue if this is granted.

Respectfully,



Lucy Faulkner Wheeler  
Owner, 336 Romany Rd.



*D. Dotson*  
SCHUBERT REALTY &  
INVESTMENT CO. INC.

p.o. box 22300

lexington, ky. 40522 606/266-5114

January 20, 1996

RECEIVED

JAN 24 1996

PUBLIC SERVICE  
COMMISSION

Executive Director's Office

Public Service Commission of Kentucky

Post Office Box 615

Frankfort, Kentucky 40602

Gentlemen:

RE: Public Notice Case No. 96009

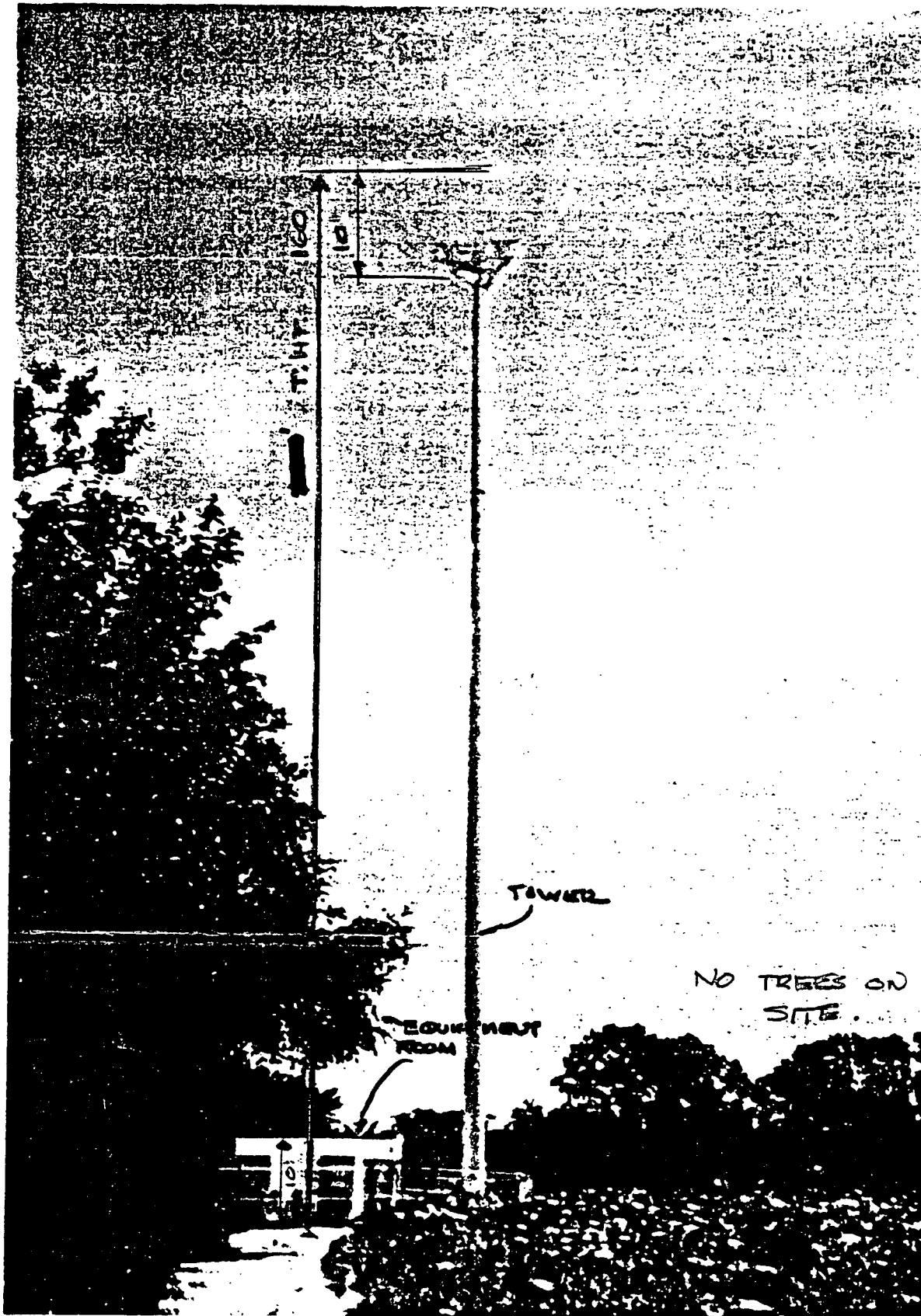
Schubert Realty, owner of property at 358 Duke Road, is very opposed to the installation of a monopole antenna tower and equipment building at 327 Duke Road for the following reasons:

1. There was no specific structure location shown on the area plat and no site plat was submitted. These units could be placed anywhere on the property.
2. This proposed project is a lease of residential land for commercial use. It exceeds height restrictions by 125 feet. It is an illegal and non-conforming use by LFUCG residential zoning code on at least two counts.
3. This installation will be a permanent defacement to this areas' residential quality and can lower property values. It is an example of "creeping commercialization" which has been successfully in this area.
4. The area's small retail convenience center has not been enlarged since the initial zoning.
5. How can this application be approved under the guise of "Public Convenience and Necessity" when the public is inconvenienced and it is only necessary for the lessor to collect rent?
6. This project is a visual environmental impairment to the residents, destructive to residential character, violates zoning laws, lowers property values without compensation and is in no way considered as a public improvement to the area.

*Richard Schubert*

Richard Schubert, President: Schubert Realty & Inv. Co. Inc.

# MONOPOLE



VIEW OF TOWER & EQUIPMENT ROOM

Dutton

RECEIVED

JAN 25 1996

PUBLIC SERVICE  
COMMISSION

Jan. 23, 1996

Executive Directors Office  
Public Service Commission of Kentucky  
Frankfort, Kentucky 40602

Dear Sirs:

I am very much against the  
construction and operation of a  
facility to provide cellular radio  
telecommunication service under  
Case No. 96-009 at Duke Road  
Lexington, Kentucky

Sincerely,

Lora B. Tuttle

Lora B. Tuttle

3244 E. Brainerd Ave

Birmingham, Ala. 35223

205-967-5661

Owner

Dotson

1-24-96  
RECEIVED  
Re: CABC

96-JAN 26 1996

PUBLIC SERVICE  
COMMISSION

Dear Sir-

The entire neighborhood  
is very upset about this  
proposal.

This is mainly a residential  
area & to put up this  
Antennas would certainly  
be detrimental. Please  
turn down this application.

Sincerely, J. L. Taylor, Pres  
B & K Realty Co Inc  
1508 Lickwood Dr  
Lexington, Ky. 40502



Dotson

RECEIVED

JAN 26 1996

PUBLIC SERVICE  
COMMISSION

Executive Director  
Public Service Commission  
PO Box 515  
Frankfort, Ky 40602

Re: Case #96-009

Dear Executive Director

We strongly object to the placement  
of 160' high tower/antennas in our residential  
neighborhood at 327 Duke Road, Lexington,  
as requested by Lexington MSA.

If such a tower must go somewhere  
in this area, it belongs in the Chevy  
chase commercial area two blocks away  
at Euclid and High Streets.

Sincerely,

Wm H Qualls  
Leif J. Qualls

FILED

JAN 30 1996

PUBLIC SERVICE  
COMMISSION

Dotson

phone 606/269-1551

MON. JAN. 29, 1996

Executive Director's Office  
Public Service Commission  
P.O. Box 615  
Frankfort, Ky. 40602

Case # 96-009, Lexington MSA Limited Partnership

Dear Sir,

I have already written - however I sent copy of my original letter by mistake. so decided I had better write again. 1. I AM AGAINST THIS 2. I WANT AN INTERVENTION HEARING.

Sincerely,

Mrs. Lucy Berger

Dotson

RECEIVED

JAN 26 1996

PUBLIC  
COMMISSION

MRS. Lucy BERGEN

324 GARDEN ROAD

Lexington, KY. 40502-2418

phone 606/269-1581

Thursday JANUARY 25, 1996

Executive Director's Office

Public Service Commission of Kentucky

P.O. BOX 615

FRANKFURT, KY. 40602

REFERENCE CASE NO. 96-009

DEAR SIR,

YOUR letter does not really explain much!  
MANY UNANSWERED questions and information needed.  
Who ARE (names please) and what is Lexington MSA  
limited Partnership? Who and what is really behind  
this? Do we really want AN TOWER with 9 ANTENNAS  
in our neighborhood? IS this REALLY NECESSARY?  
Perhaps, if they get their way - who knows if in near  
future they just might put up more ANTENNAS AND  
TOWERS IN AREA.

This CERTAINLY is NOT AN improvement to me OR the  
the neighborhood. What will it do to my property  
valuation? This is a RESIDENTIAL AREA AND I do wish  
to keep it so!

Page 2

Do we not have Regulations Against This in our Area? May I suggest Chevy Chase Shopping Area, they seem to have more vacant land and much higher buildings, etc. Much more commercial than our small Area. Surely, we have laws governing such as this in our Residential Area.

For the record - I am Against This. I do not want this in my backyard!

Sincerely

Mrs. Lucy Bergen

*Dotson*  
RECEIVED

345 Colony Blvd.  
Lexington, KY 40502  
January 24, 1996

JAN 26 1996

PUBLIC SERVICE  
COMMISSION

Executive Director's Office  
Public Service Commission of Kentucky  
P.O. Box 615  
Frankfort, KY 40602

Re: Case No. 96-009

Dear Sir or Madame:

I wish both to comment and intervene on the matter of a proposed construction and operation of a cellular radio telecommunication service by Lexington MSA Limited Partnership to be constructed on Duke Road in Lexington. By the enclosed letter from their attorney, you will see that I live within 500 feet of the area.

First, I would like to request that you provide me with a copy of the zoning regulations for the area. There are businesses in the area, but they are all low, small edifices and blend well into the residential environment. A radio tower and "equipment shelter" would be distinctly out of character for the area. I feel this would drastically reduce property values.


Second, I lived on the same block as a similar tower in another town. There were constant problems with birds and their excrement, other animals, children trying to climb the tower and falling, crime and other vandalism around the tower, etc. In addition, it created a hazard in the winter from falling ice on cars and pedestrians.

Third, I would like to request information regarding MSA Limited Partnership. The neighbors have a right to know who the stockholders are, what their purpose is, and what their goals are. The attorney's letter was vague on this issue.

Lastly, but certainly not least, there is evidence in recent years that radiofrequency/electromagnetic rays may be a health hazard or contribute to health problems. I am a medical health professional, and I watch with interest the reports of greater incidences of cancer, particularly testicular cancer, in areas where there are such towers. Arguably, more study is necessary, but since the suspicion exists, the tower should not be constructed in a residential area until the issue is settled.

I have talked with most of my neighbors and we strongly object to this construction. We are willing to obtain legal counsel to explore the issue further if needed. I trust you will keep me apprised of developments.

Respectfully yours,

  
T. C. Smith, M.D.

Enclosures 1

cc: R. Roark, Atty.

Sam G. McNamara  
ATTORNEY AT LAW  
P.O. Box 916  
315 High Street  
Frankfort, Kentucky 40602  
Phone: 502-875-8808  
Fax: 502-223-1043

January 16, 1996

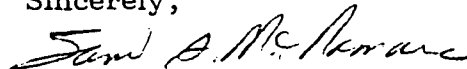
Re: Public Notice - Public Service Commission of KY  
Case No. 96-009

Lexington MSA Limited Partnership has applied to the Public Service Commission of Kentucky for a Certificate of Public Convenience and Necessity to construct and operate a new facility to provide cellular radio telecommunication service. The facility will include a 150' monopole tower, with nine (9) antennas for a total height of 160', and an equipment shelter to be located at 327 Duke Road, Lexington, Kentucky 40502. A map showing the proposed location of the proposed new facility is enclosed. This notice is being sent to you because you own property or reside within a 500' radius of the proposed tower.

The Commission invites your comments regarding the proposed construction. You also have the right to intervene in this matter. Your initial communication to the Commission must be received by the Commission within twenty (20) days of the date of this letter as shown above.

Your comments and request for intervention should be addressed to: Executive Director's Office, Public Service Commission of Kentucky, Post Office Box 615, Frankfort, Kentucky 40602. Please refer to Case No. 96-009 in your correspondence.

Sincerely,



Sam G. McNamara  
Attorney for Lexington MSA  
Limited Partnership

SGM/j

Enclosure

*Dotson*  
RECEIVED

JAN 26 1996

PUBLIC SERVICE  
COMMISSION

Carol Cravens  
303 Duke Rd.  
Lexington, KY 40502

January 22, 1996

Executive Director  
Public Service Commission of Kentucky  
P.O. Box 615  
Frankfort, KY 40602

Re: Public Notice - Public Service Commission of KY Case No. 96-009

Dear Commissioner,

This past week I received a letter from Sam G. McNamara, attorney, inviting my comments in regard to the 160' structure to be erected at 327 Duke Rd. I am opposed to this because this is a traditionally picturesque neighborhood that should not be defaced with any unsightly tower and shelter which would adversely affect the property values in this area.

If such a tower was allowed to be constructed I would like to see the use of the stealth antennas structure which would resemble a pine tree with branches, such as the type used by Sprint Cellular in Charleston S. C. I would further request the shelter to be a brick structure so it would blend well with the aesthetics of the surrounding buildings. There should also be a paved and well-maintained road to this facility, I would like to see a copy of the sight plans and blue prints of the shelter.

Sincerely,

*Carol Cravens*

Carol Cravens

Dotson

**FRED S. BACHMEYER**  
COUNSELLOR AT LAW

The Fayette Buliding  
145 West Main St. Ste. 300  
Lexington, KY 40507

Telephone  
606-253-1350  
Fax #  
606-254-0133

January 24, 1996

Executive Director's Office  
Public Service Commission of Kentucky  
P.O. Box 615  
Frankfort, Kentucky 40602

RECEIVED

JAN 29 1996

PUBLIC SERVICE  
COMMISSION

RE: Case No. 96-009

Dear Sir or Madam:

I wish to register my opposition to the above application to erect a cellular telephone tower at 327 Duke Road in Lexington.

My brother and I own the building adjacent to that site and we believe that this proposed "improvement" is contrary to both the letter and spirit of the LFUCG zoning ordinance. Duke Road is a quiet, one-block residential street with nicely landscaped and well-maintained buildings. The only exception to this is the nonresidential portion on the east side of Duke, near Cooper Drive comprising the Post Office, General Telephone building, and Little Caesar Pizza outlet.

Granting this application would leapfrog this development toward the Providence Road part of the street, and would do so in a grotesquely unprecedented fashion. A 160 foot tower is so out of character with the residential nature of this part of the street as to permanently and substantially block the landscape. It would dominate the skyline from any point on the street and not pleasantly so.

It seems odd that the applicants have not considered an alternate location. Romany Road seems an obvious choice. First, its character, at least for the same one block stretch is predominately commercial. Secondly, it is a higher elevation topographically speaking, than Duke Road and the proposed tower would presumably be shorter than 160 feet to obtain the same absolute elevation. In the

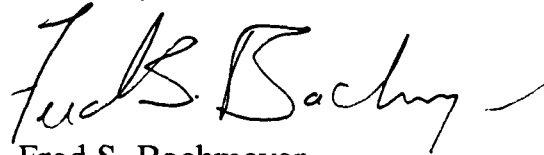


alternative perhaps they should contact Christ the King Cathedral, which maintains a very high steeple indeed.

I have one final point. If this project is approved, there would certainly be a lowering of property values on Duke Road. Our property is currently assessed at \$164,000.00. The erection of this tower will lower this and PVA's office should expect applications for reassessment from Duke Road property owners.

I appreciate your attention to the foregoing and urge you to disapprove this application.

Sincerely,

A handwritten signature in cursive script, appearing to read "Fred S. Bachmeyer", followed by a horizontal flourish line.

Fred S. Bachmeyer

FSB/pe



Wester & Associates  
1130 Providence Road  
Lexington, Kentucky 40502  
(606) 266-7663

*Dtsa*

RECEIVED

January 26, 1996

JAN 30 1996

PUBLIC SERVICE  
COMMISSION

Mr. Don Mills  
Executive Director  
Public Service Commission  
Post Office Box 615  
Frankfort, KY 40602

RE: Case No. 96-009

Dear Don:

I am writing to express my opposition to the proposal submitted for a cellular radio telecommunication tower to be located at 327 Duke Road in Lexington. This is not only a residential area, but it is also densely populated. Further, it is an older neighborhood with many tall trees lining the street. I believe many, if not all, of us who reside in this area are very opposed to this location for a communications tower.

There appears to be little room at the location selected on which to construct a tower of this height. When Paula and I received the public notice of the intent to build this structure, no mention was made of the type, color, or material used. The notice merely said it was to be a 160 foot monopole with nine antennas. It seems to me the cellular company selected the most ideal spot for their purposes and gave little if any consideration to the area and aesthetics of the neighborhood. The tower will most certainly be an eyesore and a poor attempt to squeeze a communications tower into a theoretically perfect location.

Further, it may be of some interest to know that the University of Kentucky Medical Center helicopter flies in this area nearly every day. The take-off and landing patterns are in very close proximity to the location of the proposed tower.

As residents of this neighborhood, Paula and I are very much opposed to this proposal and hope approval for the construction of this tower will not be granted.

Sincerely,

*Bill & Paula*  
William S. Wester

359 Garden Road  
Lexington, KY 40502  
January 29, 1996

Dolson

Executive Director's Office  
Public Commission of Kentucky  
P.O. Box 615  
Frankfort, KY 40602

RECEIVED

JAN 30 1996

Dear whomever:

PUBLIC SERVICE  
COMMISSION

I am writing in regard to the application of Lexington MSA Limited Partnership for a certificate of Public Convenience and Necessity to construct and operate a new facility to provide cellular radio communication service (Case no. 96-009).

I own a home in the Duke Road area and I am opposed to the construction of this tower - the 150' monopole tower with nine antennas - in our area. Ours is a nice, residential neighborhood. Such a tower will not only be a visual detriment, but will surely cause a decline in property values in the area.

I hope you will give this matter careful consideration and deny Lexington MSA Limited Partnership's request.

Sincerely yours,

Mary K. Kelly

(Miss) Mary K. Kelly

RECEIVED

JAN 30 1996

PUBLIC SERVICE  
COMMISSION

333 Dudley Road  
Lexington, KY 40502  
January 29, 1996

Datson

Executive Director's Office  
Public Service Commission of Kentucky  
P.O. Box 615  
Frankfort, KY 40602

Dear Sirs;

I am writing in reference to Case # 96-009, the proposed construction of a 160' monopole tower and an equipment shelter to be located in the heart of a residential district. I vehemently object to the location and size of said tower on the grounds of 1) nonconformity to the surroundings and 2) the huge possibility of as yet unknown electromagnetic field dangers. In addition, it is my understanding that the technology is fairly immediately forthcoming that would minimize the size of the installment so that some of these problems would not exist, but that the requesting company is not willing to wait this out.

Please consider better alternatives in making decisions which effect so many people and their well-being.

Sincerely,

*Penny Medley*

Penny Medley

REC'D

JAN 31 1996

PUBLIC SERVICE  
COMMISSION

173 Louisiana Avenue  
Lexington, KY 40502  
January 25, 1996

Executive Director's Office  
Public Service Commission  
Post Office Box 615  
Frankfort, KY 40602

Regarding: Case Number 96-009, Lexington MSA Limited  
Partnership

I am writing to express my concern about the cellular telephone tower facility proposed for 327 Duke Road in Lexington and to request an intervention hearing on this matter.

The proposed location seems totally inappropriate for a 150 foot tower, nine antennas which raise the total height to 160 feet and a shelter building. It is my understanding that technology will soon be in place to enable telecommunications companies to simply locate very small dishes, similar to the newly reduced satellite dishes for television, on existing telephone or other poles, eliminating the need for these huge, unsightly towers altogether. I think we need to either wait for this technology or find an appropriate place to locate this gigantic equipment.

This proposal raises a number of questions regarding appropriate land use, safety issues, impact on the surrounding neighborhood and many more. Everyone with whom I have spoken has concerns about the proposal. Again, I request that you schedule an intervention hearing to discuss these issues. I look forward to hearing from you soon.

Sincerely,

A handwritten signature in cursive script, appearing to read "Diane Parrish".

Diane Parrish

REC

JAN 31 1996

PUBLIC  
COMMISSION

1128 Providence Road  
Lexington, KY 40502  
January 29, 1996

Mr. Don Mills  
Executive Director  
Public Service Commission  
Post Office Box 615  
Frankfort, KY 40602

RE: Case 96-009

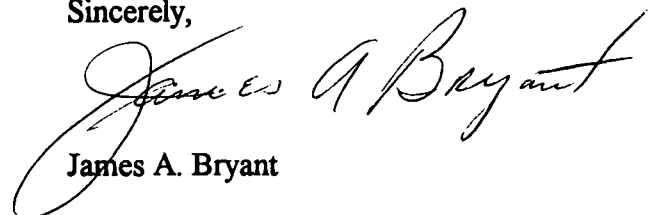
Dear Mr. Mills:

I am writing to express my opposition to the proposal before the Public Service Commission to erect a communications tower in the Chevy Chase area of Lexington. Specifically, this tower is to be located at 327 Duke Road and around the corner from my home.

This is a residential area and the street in particular is very narrow with many residents parking on the street. The tower will be unsightly and would adversely affect the unusually quiet and peaceful setting of Duke Road.

Please do all you can to prevent the construction of this radio tower. I and my family are opposed to it.

Sincerely,

A handwritten signature in cursive script that reads "James A. Bryant". The signature is written in dark ink and is positioned above the printed name.

James A. Bryant

*Potson*

**Mrs. Ruth Hudson  
1136 Providence Road  
Lexington, KY 40502**

**Mr. Don Mills  
Executive Director  
Public Service Commission  
Post Office Box 615  
Frankfort, KY 40602**

RE: Case No. 96-009

Dear Mr. Mills:

I am writing to express my complete and total opposition to the proposed communications tower to be constructed in Lexington at 327 Duke Road.

I have lived in this neighborhood for over 40 years. My husband and I chose this area because of the quiet and picturesque beauty of the tree lined streets. The construction of a 160 foot radio tower is totally unacceptable for this lovely neighborhood and I am asking you to do all you can to prevent the construction of this tower.

This tower would be within a very short distance of my home and even with the large trees in the area, I know it will spoil the view from my back yard. Surely, there can be another location on which this company can place their tower. It would be an eyesore and totally out of line with the aesthetics of the area.

Please stop the construction of this radio tower. As a property owner within one block of the proposed tower, I am opposed to approval of this request.

Sincerely,

*Ruth S. Hudson*

Mrs. Ruth Hudson

*3 Protest  
Letters  
Together*